

**Pt. 85, Subpt. V, App. II**

**40 CFR Ch. I (7–1–00 Edition)**

**Section 6: Release of Documents for Judicial Proceedings**

The AAA shall, upon the written request of a party, furnish to the party, at its expense, certified copies of any papers in the AAA's possession that may be required in judicial proceedings relating to the arbitration.

*Part D—Fees and Expenses*

**Section 1: Administrative Fee**

The AAA shall be compensated for the cost of providing administrative services according to the AAA Administrative Fee Schedule and the AAA Refund Schedule. The Schedules in effect at the time the demand for arbitration or submission agreement is received shall be applicable.

The administrative fee shall be advanced by the initiating party or parties, subject to final allocation at the end of the case.

When a claim or counterclaim is withdrawn or settled, the refund shall be made in accordance with the Refund Schedule. The AAA may, in the event of extreme hardship on the part of any party, defer or reduce the administrative fee.

**Section 2: Expenses**

The loser of the arbitration is liable for all arbitration expenses unless determined otherwise by the arbitrator.

**Section 3: Arbitrator's Fee**

An arrangement for the compensation of an arbitrator shall be made through discussions by the parties with the AAA and not directly between the parties and the arbitrator. The terms of compensation of arbitrators on a panel shall be identical.

**Section 4: Deposits**

The AAA may require the parties to deposit in advance of any hearings such sums of money as it deems necessary to defray the expense of the arbitration, including the arbitrator's fee, if any, and shall render an accounting to the parties and return any unexpended balance at the conclusion of the case.

*Part E—Expedited Procedures*

**Section 1: Notice by Telephone**

The parties shall accept all notices from the AAA by telephone. Such notices by the AAA shall subsequently be confirmed in writing to the parties. Should there be a failure to confirm in writing any notice hereunder, the proceeding shall nonetheless be valid if notice has, in fact, been given by telephone.

**Section 2: Appointment and Qualifications of Arbitrator**

The AAA shall submit simultaneously to each party an identical list of five proposed arbitrators drawn from the National Panel of Commercial Arbitrators, from which one arbitrator shall be appointed.

Each party may strike two names from the list on a preemptory basis. The list is returnable to the AAA within seven days from the date of the AAA's mailing of the list to the parties.

If for any reason the appointment of an arbitrator cannot be made from the list, the AAA may make the appointment from among other members of the panel without the submission of additional lists.

The parties will be given notice by the AAA by telephone of the appointment of the arbitrator, who shall be subject to disqualification for the reasons specified in Part A, Section 6. The parties shall notify the AAA, by telephone, within seven days of any objection to the arbitrator appointed. Any objection by a party to the arbitrator shall be confirmed in writing to the AAA with a copy to the other party or parties.

**Section 3: Date, Time, and Place of Hearing**

The arbitrator shall set the date, time, and place of the hearing. The AAA will notify the parties by telephone, at least seven days in advance of the hearing date. Formal Notice of Hearing will be sent by the AAA to the parties and the MOD Director.

**Section 4: The Hearing**

Generally, the hearing shall be completed within one day, unless the dispute is resolved by the submission of documents. The arbitrator, for good cause shown, may schedule an additional hearing to be held within seven days.

**Section 5: Time of Award**

Unless otherwise agreed by the parties, the award shall be rendered not later than 14 days from the date of the closing of the hearing.

**Section 6: Applicability of Rules**

Unless explicitly contradicted by the provisions of this part, provisions of other parts of the Rules apply to proceedings conducted under this part.

[54 FR 32593, Aug. 8, 1989]

**Subpart W—Emission Control System Performance Warranty Short Tests**

AUTHORITY: Secs. 207, 301(a), Clean Air Act as amended (42 U.S.C. 7541(b) and 7601(a)).

**§ 85.2201 Applicability.**

(a) This subpart contains the short tests and standards to be employed in conjunction with the Emissions Performance Warranty, subpart V.

(b) *Calendar and model year limitations.* Certain test procedures contained in this subpart are subject to calendar and model year limitations. Otherwise, unless specifically indicated, the provisions of this subpart may be used to establish warranty eligibility for any 1981 and later model year light-duty vehicle and light-duty truck when tested during its useful life as prescribed under the Emissions Performance Warranty, in subpart V of this part.

(c) *Special recommendations for Ford Motor Company and Honda Prelude vehicles.* Due to unique emission control systems, 1981 through 1987 model year vehicles manufactured by Ford Motor Company and 1984 through 1985 model year Honda Preludes must be tested with procedures that either incorporate a special engine restart feature or utilize a dynamometer to simulate a road load. The Agency has included short tests with the special engine restart feature in this subpart even though these vehicles are no longer eligible for the Emissions Performance Warranty, to ensure they are properly tested by state or other I/M authorities. Short tests incorporating the restart feature are the Engine restart 2500 rpm/Idle test—EPA 81 (§85.2210), Engine restart idle test—EPA 81 (§85.2211), Idle test—EPA 91 (§85.2213), Two speed idle test—EPA 91 (§85.2215), Preconditioned idle test—EPA 91 (§85.2218), Idle test with loaded preconditioning—EPA 91 (§85.2219), and Preconditioned two speed idle test—EPA 91 (§85.2220). Short tests utilizing a dynamometer are the Loaded test—EPA 81 (§85.2216) and Loaded test—EPA 91 (§85.2217). This recommendation does not apply to tests conducted at altitudes above 4000 feet. Any of the short test procedures may be used for other vehicles which are similarly no longer eligible for performance warranty coverage.

[49 FR 24323, June 12, 1984, as amended at 58 FR 58400, Nov. 1, 1993]

**§ 85.2202 General provisions.**

The definitions and abbreviations in subpart A of part 86 of this chapter apply to this subpart.

[49 FR 24323, June 12, 1984]

**§ 85.2203 Short test standards for 1981 and later model year light-duty vehicles.**

(a) For light-duty vehicles for which the test procedures described in §§85.2209, 85.2210, 85.2211, 85.2212, 85.2214, or 85.2216 are used to establish Emissions Performance Warranty eligibility (that is, 1981 and later model year light-duty vehicles at low altitude and 1982 and later model year vehicles at high altitude to which high altitude certification standards of 1.5 g/mile HC and 15 g/mile CO or less apply), short test emissions for all tests and test modes may not exceed the standards listed in paragraphs (a)(1) and (2) of this section.

(1) Hydrocarbons: 220 ppm as hexane.

(2) Carbon monoxide: 1.2%.

(b) For light-duty vehicles for which the test procedure described in §85.2214 is used to establish Emissions Performance Warranty eligibility (that is, 1981 and later model year light-duty vehicles at low altitude and 1982 and later model year vehicles at high altitude to which high altitude certification standards of 1.5 g/mile HC and 15 g/mile CO or less apply), the lowest readings from the two idle modes must be used to determine compliance. Short test emissions may not exceed the standards listed in paragraphs (b)(1) and (2) of this section.

(1) Hydrocarbons: 200 ppm as hexane.

(2) Carbon monoxide: 1.0%.

(c) For gasoline-fueled light-duty vehicles for which any of the test procedures described in §§85.2213, 85.2215, 85.2217, 85.2218, 85.2219, or 85.2220 are utilized to establish Emissions Performance Warranty eligibility (that is, 1981 and later model year light-duty vehicles at low altitude and 1982 and later model year vehicles at high altitude to which high altitude certification standards of 1.5 g/mile HC and 15 g/mile CO or less apply), short test emissions for all tests and test modes may not exceed the standards listed in paragraphs (c)(1) and (2) of this section.